

HOUSE BILL REPORT

HB 1412

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to health benefit plan coverage of neurodevelopmental therapies.

Brief Description: Concerning health benefit plan coverage of neurodevelopmental therapies.

Sponsors: Representatives Kagi, Roach, Cody, Roberts, Dickerson, Appleton, Walsh, Green, Hunt, Seaquist, Chase, Morrell, Kessler, Kenney, Simpson and Nelson.

Brief History:

Committee Activity:

Health Care & Wellness: 2/5/09, 2/13/09 [DPS].

Brief Summary of Substitute Bill

- Expands the neurodevelopmental therapy mandate that applies to the Public Employees Benefit Board health programs and group health plans.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Cody, Chair; Driscoll, Vice Chair; Green, Hinkle, Kelley, Moeller, Morrell and Pedersen.

Minority Report: Do not pass. Signed by 3 members: Representatives Ericksen, Ranking Minority Member; Bailey and Herrera.

Staff: Dave Knutson (786-7146)

Background:

Autism is an Autism Spectrum Disorder (ASD) which causes developmental disabilities and numerous social, behavioral, and physical challenges. Individuals with ASD often display unusual behaviors and interests, unusual ways of learning and paying attention, and impaired verbal and non-verbal communication skills. In addition to these behavioral symptoms,

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individuals with ASD will often have physical ailments such as asthma, digestive disorders, persistent viral infections, and epilepsy.

Signs and symptoms of ASD begin before age three and last throughout life. The ASD occurs in all racial, ethnic, and socioeconomic groups, but is four times more likely to occur in boys than girls. According to a study done by the Centers for Disease Control and Prevention (CDC), one in 150 8-year-olds in the United States had an ASD in 2007. Currently, there is no cure for ASD, but early detection and treatment can greatly improve symptoms and development.

Significant debate exists over the causes of ASD. Scientists believe that both genes and environment play a role in the development of ASD, noting that environmental factors may trigger the expression of certain genes.

Recently, several federal actions have been taken in response to the rising rates of ASD. In 2007 the Expanding the Promise for Individuals with Autism Act was introduced, which provided approximately \$83 million in Fiscal Year 2008 to improve access to comprehensive treatments, interventions, and services for individuals with ASD and their families. In 2006 the Combating Autism Act was enacted, which provides almost \$1 billion over five years for ASD and developmental disabilities research, screening, treatment, and education. The 2000 Children's Health Act established the National Center on Birth Defects and Developmental Disabilities at the CDC and authorized the establishment of Centers of Excellence at both the CDC and the National Institutes of Health to promote research and monitoring efforts related to causes, diagnosis, early detection, prevention, and treatment of ASD.

In response to the growing number of individuals with ASD, states have taken action to address the needs of these individuals. Several states have developed task forces or commissions to further study ASD issues. California created the California Legislative Blue Ribbon Commission on Autism with the goal of addressing the needs of children and adults with ASD. Other states have utilized Home and Community-Based Waivers to make Medicaid funds available to assist individuals with ASD. At least 10 states specifically require insurers to provide coverage for the treatment of ASD. Eight states enacted such legislation during the 2007-2008 legislative session: Arizona, Connecticut, Florida, Illinois, Louisiana, Pennsylvania, South Carolina, and Texas. In addition, some states may require limited coverage for ASD under their mental health parity laws. Massachusetts enacted legislation in 2008 to specify that ASD shall be covered under their mental health parity laws on a nondiscriminatory basis.

The existing statutory health insurance mandate for neurodevelopmental therapies covers physical therapy, occupational therapy, and speech therapy for children up to age six.

The Department of Health (DOH) was requested to conduct a Sunrise review of an ASD insurance mandate that applied to the individual and group health insurance markets in July 2008. The DOH Sunrise review recommended the Legislature not enact the proposed legislation and instead:

1. expand the existing neurodevelopmental therapy mandate to:
 - require increased coverage amounts;

- require the coverage of an Applied Behavior Analysis (ABA) when performed by or under the supervision of nationally certified providers;
- raise or eliminate the age limit for benefits – currently, benefits under this mandate end at age 7; and
- match services currently available to low-income children on Medicaid.

2. expand or clarify the mental health parity mandate to include treatment for ASD.

Summary of Substitute Bill:

The existing neurodevelopmental therapy health insurance mandate that applies to the Public Employees Benefit Board and group health plans is expanded to cover children up to age 18. The mandate will cover ABA treatment and other treatments of developmental disabilities or delays. Carriers are authorized to set reasonable medical necessity criteria, apply the same deductibles, coinsurance and copayments that apply to other covered services, and ensure the treatment plan complements other neurodevelopmental services a child receives through publicly funded programs.

An annual cap of \$50,000 is applied to covered neurodevelopmental therapies. The relationship between this mandate and the federal Individuals with Disabilities Education Act statute is clarified. If services are provided to a covered child by a school through an Individual Education Plan, the health plan does not have to duplicate those services.

The Department of Health is directed to identify and review evidence-based treatments for Autism Spectrum Disorder every two years and to conduct a Sunrise review to determine the most appropriate method to regulate ABA providers.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that the mandate is up to age 18 for both Public Employees Benefit Board and private coverage. Treatment plans must be individualized, must be based upon a comprehensive evaluation of the child, and can be reviewed more frequently than quarterly. The original bill limited review to no more frequently than quarterly.

The substitute bill also removes “restore” from the purposes of neurodevelopmental therapies, i.e., and now includes therapies are to improve and to prevent deterioration in functioning. Clarifies the relationship between this mandate and the federal Individuals with Disabilities Education Act statute.

Neurodevelopmental therapy services are limited to \$50,000 per year. Neurodevelopmental therapy benefits can be subject to any cumulative annual or lifetime benefit limits for all services provided under the health plan. Rather than a one-time review to identify evidence-based treatments for children with Autism Spectrum Disorder, the substitute bill makes the Department of Health review a biannual activity so that new evidence can be taken into consideration.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for Section 6, relating to the repeal of the existing neurodevelopmental therapies mandate, which takes effect January 1, 2011.

Staff Summary of Public Testimony:

(In support) This is a reasonable, limited expansion of an existing neurodevelopmental therapy mandate. Children need this treatment up through their 18th birthday to help them succeed in school and in life.

(Opposed) The bill does not go far enough. It should provide coverage for up to \$50,000 per year in Autism Spectrum Disorder (ASD) therapy for children. A child needs Applied Behavior Analysis treatment beginning as soon as they are diagnosed with ASD.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Betsy McAlister, King County Parent Coalition; Patty Gee, Autism Society of Washington; Elaine Aemantrout, Physical Therapy Association of Washington; Pam Mullens, Dynamic Family Services; Kathy Stewart, Occupational Therapy of Washington State; Scott Plack, Group Health; Sydney Smith Zvarra, Association of Washington Health Care Plans; Linda Glas; Felice Orlich, Seattle Children's Hospital; Sandy Dempsey; Carrie Fannin; and Dawn Sidell, Northwest Autism Center.

(Opposed) Arzu Forough, Autism Speaks; and Ethan Pruett, Wyatt Holliday Foundation.

Persons Signed In To Testify But Not Testifying: None.